

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

BERNARD CURTIS DAVIS,

Defendant.

Case No. CR10-5219RBL

ORDER

THIS MATTER comes on before the above-entitled Court upon several documents filed pro se by the Defendant. Having considered the entirety of the records and file herein, the Court finds and rules as follows:

The Defendant is represented by counsel. He has filed several documents on his own behalf. In the most recent filings he purports to file them as if his attorney was actually the filer by beginning each document with "COMES NOW THE DEFENSE, LAW OFFICES OF Michael Schwartz on behalf of THE DEFENDANT-APPELLANT, Bernard Davis and swears as follows:". [See Dkt. #s 55 and 56]. This he may not do. Davis is not an attorney and he is most definitely not Michael Schwartz, nor does he work for or have the authority to act as, or on behalf of, the Law Offices of Michael Schwartz.

To the extent that the Court may have extended the courtesy to the Defendant to allow him to file his own motions, etc., even though he is represented, that courtesy is withdrawn. The Court will not accept further filings directly from the Defendant. Any further filings must be filed by his attorney. If the

1 Defendant attempts to directly file anything else, that document will be forwarded to his counsel and will
2 not be docketed.

3 As for the motions the Defendant has previously filed, the Motion to Dismiss the Indictment for
4 Prosecutorial Misconduct [Dkt. #55] is **DENIED** and the Motion to Dismiss for the Government's Failure
5 to Provide Discovery [Dkt. #56] is also **DENIED**. The Defendant's request for the transcript of his
6 suppression hearing and for the appointment of counsel to prosecute his earlier filed appeal [Dkt. #48] is
7 **DENIED**. Although this Court does not presume to advise the Ninth Circuit Court of Appeals as to its
8 jurisdiction, the Court notes that the Court of Appeals lacks jurisdiction over an appeal of a motion to
9 suppress so long as there are further criminal proceedings pending. *See United States v. Storage Spaces*
10 *Designated Nos. 8 & 49*, 777 F.2d 1363, 1365 (9th Cir. 1985). If the Ninth Circuit determines the
11 Defendant is entitled to pursue his interlocutory appeal, they will appoint counsel and direct the
12 preparation of transcripts.

13 **IT IS SO ORDERED.**

14 The Clerk shall send uncertified copies of this order to all counsel of record, and to the Defendant.

15 Dated this 4th day of August, 2010.

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18 RONALD B. LEIGHTON
19 UNITED STATES DISTRICT JUDGE
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